

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSEPH GUARNERI,

Petitioner,

v.

9:14-CV-0416
(DNH/ATB)

SUPERINTENDENT,

Respondent.

APPEARANCES:

OF COUNSEL:

JOSEPH GUARNERI, 11-B-3637
Plaintiff, pro se
Five Points Correctional Facility, Caller Box 119
Romulus, New York 14541

HON. ERIC T. SCHNEIDERMAN
Office of the Attorney General - Albany
Counsel for Respondent
The Capitol
Albany, New York 12224

THOMAS B. LITSKY, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se petitioner Joseph Guarneri brought this petition for habeas relief pursuant to 28 U.S.C. § 2254 on April 14, 2014. On July 14, 2015, the Honorable David E. Peebles, United States Magistrate Judge, advised, by Report-Recommendation, that the petition be dismissed as a result of petitioner's failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and no certificate of appealability be issued. No

objections to the Report-Recommendation were filed.

Based upon a careful review of entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

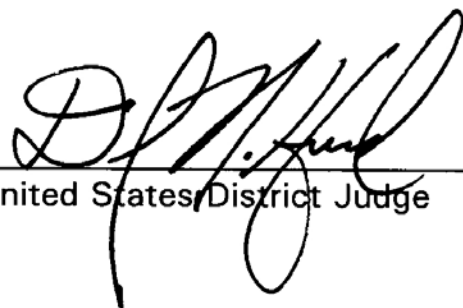
ORDERED that

1. The petition for a writ of habeas corpus (ECF No. 1) is **DENIED** and **DISMISSED** pursuant to Federal Rule of Civil Procedure 41(b) and Local Rules 10.1(c)(2) and 41.2(a) and (b) for failure to prosecute and for failure to obey the court's Orders;

2. Because petitioner has not made a substantial showing of the denial of any constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253; and

3. The Clerk serve a copy of this Decision and Order on the parties in accordance with the Local Rules, enter judgment accordingly, and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: September 1, 2015
Utica, New York.